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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,172	05/28/2002	Jasmin Weinert	1124515	9729

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Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

EXAMINER

VARGOT, MATTHEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,172

Applicant(s)

WEINERT, JASMIN

Examiner

Mathieu D. Vargot

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

1. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In that claim 1 calls for coating the carrier "located in a vacuum chamber", it is unclear how claim 7 further limits claim 1 and therefore claim 7 is indefinite. Applicant should point out how claim 7 further limits claim 1 or cancel the claim.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/18978 (see page 6, lines 1-7 and 22-27; page 7, line 5 and lines 13-29) in view of Kittler, Jr.

The primary reference discloses the basic claimed process and apparatus for producing plane-parallel flakes or platelets by coating a carrier with an inorganic separating agent followed by at least one product layer in a vacuum chamber, transporting the carrier through rotation and stripping the product layer at a different pressure (as recited in instant claim 9) by dissolving the separating agent layer to produce the plane-parallel flakes. Essentially, PCT -978 lacks a showing of using a carrier which is itself rotatable about an axis (ie, a roller) and the use of organic separating agents that would be melted rather than dissolved. Kittler, Jr discloses these aspects. See roll 22 in the figures and column 2, lines 58-60. While it is realized that the secondary reference

uses a knife blade to strip both separating layer and product layer from the carrier before the two are separated from each other, it is submitted that one of ordinary skill in this art would realize that organic separating agents as taught in Kittler, Jr would have also been used in the general (process and) apparatus as set forth in the primary reference. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the process and apparatus of the primary reference as taught by Kittler, Jr dependent on the amount of plane-parallel flakes to be produced and size of equipment needed. Certainly, it would have been obvious to replace the belt in PCT -978, which is rotatable about two axes, with a roller which is rotatable about a single axis, as the deposition surface. It is nothing but conventional in the art to employ belts and rollers interchangeably as deposition surfaces and they are art recognized equivalents. The coating of only a partial surface would have been obvious dependent on the exact amount of flakes desired. Likewise, the number of rotations the carrier makes during the depositions and making the carrier as discrete bodies as set forth in instant claims 12 and 13 would have been within the skill level of the art for the same reason.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Josephy et al is cited as of interest to show methods of vacuum depositing onto a carrier and stripping therefrom to make flakes.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
June 8, 2004

M. Vargot
Mathieu D. Vargot
Primary Examiner
Art Unit 1732

6/8/04